



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

GDA:WYC  
F.# 2006R02252

*271 Cadman Plaza East  
Brooklyn, New York 11201*

September 4, 2008

**By ECF and Hand Delivery**

The Honorable Sandra L. Townes  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Paul Spina  
Criminal Docket No. 06-800 (SLT)

Dear Judge Townes:

The government writes in anticipation of the defendant Paul Spina's sentencing, scheduled for September 12, 2008 at 11:00 a.m., and in response to the defendant's sentencing submission, filed on September 2, 2008.

The defendant objects to the advisory Guidelines calculation contained in the presentence report ("PSR") insofar as it: (1) includes consideration of relevant conduct to which the defendant did not plead guilty (PSR ¶ 194) and (3) fails to include a two-level reduction based on the global disposition in this case (PSR ¶ 2).

First, with respect to relevant conduct to which the defendant did not plead guilty, the government elects not to offer proof of that conduct. The government takes this position consistent with its plea agreement with the defendant, and for strategic reasons, including the desire not to expose cooperating witnesses and evidence at this time.

Accordingly, the defendant's total offense level is 30, which carries an effective advisory range of imprisonment of 108 to 120 months, assuming a Criminal History Category of III:

Count 3 (Murder-in-Aid-of-Racketeering Conspiracy - John Doe #4)

Base Offense Level (2A1.5(a))	33
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Less: Acceptance of Responsibility (3E1.1(b))	<u>-3</u>
	30

Second, consistent with the Court's prior rulings as to the global disposition in this case, the government does not oppose the imposition of a sentence outside the above advisory Guidelines range by factoring in a two-level reduction in recognition of the substantial savings in resources obtained by the global disposition in this complex multi-defendant case. The resulting offense level is 28, which carries a range of imprisonment of 87 to 108 months.

Finally, consistent with the plea agreement, the government takes no position where within the advisory Guidelines range the defendant should be sentenced, nor will the government make any application for an upward departure. The government nevertheless opposes any additional downward adjustment - whether pursuant to Section 3553(a) or any Guidelines provision.

Respectfully submitted,

BENTON J. CAMPBELL  
United States Attorney  
Eastern District of New York

By: /s/  
Greg D. Andres  
Amy Busa  
Winston Y. Chan  
Assistant U.S. Attorneys

cc: Clerk of Court (by ECF)  
Defense Counsel (by ECF)